

**Westfield Planning Commission**  
**Response to Public Comment re: Proposed revision of the Zoning Bylaw**  
**January 15, 2023**

**Questions and comments received by the Planning Commission have been grouped by topic.**

**Comment topic is in bold text:**

Response: Planning Commission response in plain text

**1. Development restrictions on property and the idea that with every Bylaw revision, there are increased restrictions to development:**

Response: There have been development restrictions through a Zoning Bylaw in Westfield since the early 1970s. All parcels in the Town of Westfield are subject to development restrictions.

In areas of Westfield that can support development without increasing runoff or compromising other ecosystem services, this Zoning Bylaw revision increases development rights. The proposal increases permitted principal dwellings from one to two on a parcel and permits an accessory dwelling for each principal dwelling.

After hearing comments and concerns about residences on existing parcels, the Planning Commission agrees that property owners be allowed to build and maintain a dwelling on their property when they can demonstrate that it does not compromise the integrity of another landowners' property. The Planning Commission will amend the proposed Zoning Bylaw to include conditional use approval for dwellings in the conservation district. We heard comment that there are areas in the conservation district where some development could happen that would not promote flood conditions, are not on steep slopes, and would not cause forest fragmentation. Accordingly, the proposed Bylaw provides a path for approval of these applications through Conditional Use Review in the conservation district. The proposal already includes the permitted use of a camp, and conditional uses of accessory structures, home businesses, outdoor recreation, campsite, events, and non-commercial grading in the conservation district. In combination, these uses provide an increase in development rights to property owners in the conservation district compared to the existing, current Zoning Bylaw.

**2. There have been concerns expressed by landowners in the proposed conservation district that their property rights are being overly restricted compared to landowners below 1600 feet in elevation:**

Response: In fact, the current zoning regulations place the most stringent development restrictions in Westfield on lowland and floodplain areas, and virtually no development restrictions in upland areas. In terms of equity, the Planning Commission views the increasing flood risk as a function of the entire ecosystem, not just activity in the floodplain. Landowners in areas that are increasingly flood prone currently carry the entire burden of actions in upland regions that increase the frequency and severity of flood. For example, a flood conditions caused by fluctuating temperatures (warm days during winter causing large snowmelt) plus precipitation as rain rather than snow is an increasing occurrence. If the forested areas did not shade the snowpack and prevent further snowmelt, the flooding conditions would be more extreme for low lying areas. Development in upland forested areas is directly related to the

severity or prevention of flood events. Limiting development in upland forests is on par with the limitations on development in other sensitive areas.

### **3. Development in areas where utility infrastructure, small lots and roads already exist such as Alpine Haven:**

Response: The Planning Commission proposes to define the conservation district as land above 1600 feet in elevation AND will add that it includes land not in the current recreation residential zoning district. All existing development in Alpine Haven is within the current recreation residential zoning district and will not be included in the conservation district. This will mean there is no change from the current Zoning District for the Alpine Haven community.

### **4. Reducing the value and tax revenue for property in the proposed conservation district, and statements that the town would need a new land schedule:**

Response: It can be noted that these concerns have come solely from owners of parcels above 1600 feet with the implication that these landowners will grieve (and seek to reduce) the tax liability for their property.

The assessed value of land is based on fair market value. There is no evidence that fair market value in rural areas is significantly impacted by zoning regulations. Sales data show that brokers are not marketing land with no zoning at significantly higher values. For example, the land values in Coventry with no zoning are not higher than in neighboring towns with zoning. There is no evidence that a conservation district diminishes fair market value. For example, Montgomery has had conservation districts with significant development restrictions for more than 30 years. At the same time, the current land schedule for Montgomery has higher land values than the current land schedule in Westfield, where a conservation district does not currently exist.

At each town-wide reappraisal, property is assessed at its fair market value for its highest and best use resulting in a land schedule with acreage values. Adjustments are made to the land schedule based on sales, and land grades are assigned to adjust values of individual parcels. Property taxation is then calculated as the value of land (based on the land schedule) multiplied by the land grade. The land grade of 1.0 is assigned for a flat average parcel, meaning the tax would be the value in the land schedule multiplied by 1, or the full fair market value.

Regarding reducing the value of land by creation of a conservation district, the parcels in the conservation district have steep slopes, little or no maintained road access and little or no utility infrastructure. Because of this, the value of most of these parcels is already reduced for tax purposes with land grades ranging from .3 to .5, meaning the assessed value and property tax due is 30%- 50% of the full fair market value. The physical properties of the land itself is the primary factor in the land grade.

An example of how land assessment is based on fair market value, and the physical characteristics of the land (not related to zoning): Currently in Westfield, there is a 120-acre parcel of land at 2000 feet with very minimal zoning regulation, with a land grade of .3. This means the value and resulting tax revenue for that parcel is discounted by 70% because of its physical features. Also currently, there is a 165-acre

parcel along the river, where 80 acres of the 165-acre parcel have significant development restrictions due to zoning in the floodplain, and that parcel has a land grade of .7 meaning the value and resulting tax revenue for that parcel is discounted by only 30%.

If the listed value of land was significantly impacted by zoning regulation, then we would expect the parcel in the floodplain with much greater zoning restrictions to have a lower land grade and value, and the high elevation parcel that has virtually no zoning restrictions to have a higher land grade and value. But that is not the case; the reality is that the current assessment system already takes into account lands that support development and lands that do not, through fair market value.

#### **5. Reducing the value of development rights that may be sold to a conservation organization (land trust):**

Response: The Vermont Land Trust calculates the value of development rights by performing an appraisal of a property before the easement and compares that to the appraised value after the easement. The value of the easement is the difference. A professional appraiser will do this work, assessing the fair market value and the highest and best use according to comparable property sales. The main factors influencing the appraised value include distance from maintained roads, utility infrastructure, and if development on the parcel would require considerable investment. Parcels in the proposed conservation district have steep terrain or one must cross steep terrain to create further access, do not have maintained roads, do not have utility infrastructure. While a change in zoning may play a significant part in the fair market value of a lot in a suburb of Burlington, for example, the physical characteristics of the land are far more dominant for rural land in Westfield. Because of this, along with permitting through conditional use review for structures including dwellings, we don't anticipate impact on the value of development rights that might be sold to a conservation organization or land trust.

#### **6. What a person can do if they disagree with the proposed revisions to the Zoning Bylaw:**

Response: Vermont Statute clearly provides authority to municipalities to establish development regulations. If a person claims that their legal rights have been infringed upon, a path of recourse is to make a Zoning Permit Application for the desired development, and if that application is denied for reasons you believe violate your legal rights, then you may make an appeal to Vermont Superior Court Environmental Division.

#### **7. How can the proposal be considered by Australian Ballot:**

Response: Australian Ballot Options

A) The Selectboard may put the bylaw before the voters for adoption via Australian Ballot. A proposed bylaw amendment for a municipality shall be adopted or rejected by the vote of the municipality at the next regular or special town meeting duly warned and held after final public hearing. The adoption or rejection shall be effective immediately.

B) Petition for Popular Vote. If the Selectboard adopts the Bylaw revisions, they shall not take effect if five percent of the voters of the municipality petition for a meeting to consider the bylaw revisions, and the petition is filed within 20 days of the Selectboard vote to adopt. In that case, a meeting of the municipality shall be duly warned for the purpose of acting by Australian ballot upon the bylaw revisions.

#### **8. Having a short-term rental in the proposed conservation district:**

Response: After hearing comments and consideration, the proposed Bylaw has added dwellings as a conditional use in the conservation district. In the proposed Bylaw one short-term rental unit that is attached or on the same parcel as your home is considered a home occupation. A home occupation is exempt in all Zoning Districts, meaning the resident can legally do this without a Zoning Permit. A resident could live in a single household dwelling and also have an accessory dwelling using one of these as a short-term rental. A Zoning Permit would be required to build the structures. No Zoning Permit would be required for changing the use of one structure to short-term rental.

For properties where there is not a permanent resident, short term rentals are a conditional use in all Districts, except it is prohibited in the conservation district. Guests who have short stays with no on site support or supervision from the owner, often have little understanding or regard for the long-term consequences of their actions. This could range from an inadequate vehicle creating ruts (which need to be graded and filled adding loose materials in steep areas) and erosion problems, or a traffic safety hazard for the guests or others, or accumulation of garbage that is not properly disposed of by the owner. Emergency services to many locations in the conservation district are unavailable. For these reasons, the Planning Commission recommends that stand-alone short-term rentals (meaning where there is not a permanent resident on-site) be prohibited in the proposed conservation district. An option for a non-resident would be to rent to a group for a whole season, or at least longer than 30 days.

#### **9. Renovation, additions, and re-construction of existing structures in the conservation district:**

Response: Renovation, additions, and reconstruction (at a current or different location on the parcel) is allowed for any nonconforming structure according to

§602 Maintenance of Nonconforming Structures: Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformance.

#### **10. The Planning Commission has received concern that 900 square feet and 20 feet height is too limited for a camp:**

Response: The limitation of 900 square feet is the footprint of the building, not interior living space that would include square footage of a second floor. The Planning Commission has made this more clear in the Bylaw language and expanded the maximum height to 35 feet to be consistent with the maximum height for other structures. If an existing camp exceeds these limits, it is a nonconforming structure. The Bylaw stipulates that a nonconforming structure can be maintained. Furthermore, if a larger structure is

required, there is a permitting pathway for single and two household dwellings in all districts (including the conservation district after consideration of public comment.)

### 11. Can I put a tiny house on my parcel in the conservation district?

Response: A tiny house could be a dwelling or a camp depending on how you will use it. In the proposed Bylaw, a tiny house used as a camp is permitted in the conservation district. In addition, two principal dwellings plus two accessory dwellings may be permitted on a parcel in the conservation district as a conditional use. A tiny house could be any or all of these dwellings.

### 12. What is an accessory dwelling?

Accessory Dwelling: An attached or detached dwelling, located within or appurtenant to a single-or two-household dwelling, that is clearly subordinate to a single-or two-household dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. The owner or a permanent resident shall occupy either dwelling.

### 13. Comments and suggestions that the existing Vermont Land Trust easements and current use will protect forest blocks from fragmentation:

Response: Current Use enrollment in Vermont has provided tax savings to owners and incentive to prevent subdivision of large parcels in agriculture and forestry. It is designed to relieve economic pressure for farmers and forest landowners. Land can be withdrawn at any time. A land use change tax of 10% of the fair market value is collected when land is withdrawn and developed. Any subdivision of land into a parcel fewer than 25 acres is considered developed. From the State of Vermont, Department of Taxes 2022 Annual Report on Property Valuation and Review reports withdrawals from current use with the most recent at the top:

**Table 14: Withdrawals of Enrolled Land and Buildings and Land Use Change Tax (LUCT)**

Calendar Year	LUCT Assessed on Developed Acres	LUCT passed on to Municipality	Acres Developed and/or Lien Removal Requested	Acres Withdrawn (LUCT Not Due)	Number of Farm Buildings With-drawn	Number of Completed Withdrawals
2022	\$1,725,911	\$556,911	2,013	23,516	260	778
2021	\$1,289,306	\$407,463	1,466	18,259	90	511
2020	\$516,061	\$229,261	889	20,362	106	451
2019	\$761,257	\$274,904	1,196	17,452	133	492
2018	\$714,088	\$311,085	1,028	19,844	295	592
2017	\$753,392	\$210,935	1,502	9,865	-	399
2016	\$432,534	-	1,487	9,792	-	344
2015	\$398,881	-	1,483	5,119	-	358
2014	\$418,604	-	1,826	10,863	-	453
2013	\$575,675	-	2,350	8,331	-	457
2012	\$528,492	-	3,005	8,792	-	432
2011	\$539,781	-	2,865	10,271	-	412
2010	\$528,710	-	1,807	5,484	-	341

Note from the Department of Taxes: Land can be discontinued from the program without having been assessed. These acres are show in the “Acres Withdrawn, Land Use Change Tax Not Due” column. If the land is then developed in the future, the program might find out about the development through a title search when a parcel is being transferred, through the listers who are aware of the previous enrollment, or it might go undetected for years.

The number of parcels and acreage withdrawn is significantly higher since 2018 and increasing (Table 14 from the Dept of Taxes.) We might expect to see higher withdrawals because the amount of land in the program overall is increasing. However, that is not the driver of the increase. If we look at land withdrawn as a percent of the overall land enrolled each year, that is also increasing.

	Total Acres Enrolled	Total acres withdrawn (with and without LUCT)	Withdrawals as a percentage of total enrolled
2022	2,559,641	25,529	1.00%
2021	2,543,995	19,725	0.78%
2020	2,531,733	21,251	0.84%
2019	2,517,911	18,648	0.74%
2018	2,498,517	20,872	0.84%
2017	2,479,874	11,367	0.46%
2016	2,456,636	11,279	0.46%
2015	2,426,149	6,602	0.27%
2014	2,412,096	12,689	0.53%
2013	2,369,819	10,681	0.45%
2012	2,327,208	11,797	0.51%
2011	2,283,613	13,136	0.58%
2010	2,248,022	7,291	0.32%

In Westfield specifically, two parcels above 1600 feet have been withdrawn within the past two years. By the time we recognize that the current use program is not sustaining high elevation lands as forest land, it would be too late to take any action to maintain the natural community.

There are also large parcels above 1600 feet that have conservation easements, or state ownership, that allow no development. While these protections ensure the integrity of much of the high elevation forest, when there is development pressure, this protection increases the likelihood that development will encroach on the connectivity of the upland forest. Development would be focused in the remaining available upland area and most likely progress into interior forest along Corrow Basin Road and Verge Road where there are existing logging roads. From a water quality perspective, these areas are the most sensitive and undesirable for development since these roads are perpendicular to the contour lines and create hydrologically connected pathways.

#### **14. The Planning Commission has received comment about the Tramway at Jay Peak and how the conservation district fits into future development at the resort:**

Response: The Jay Peak development in Westfield is on state land that is leased to the ski area and is primarily above 2500 feet where Act 250 has jurisdiction. Any development regulated by Act 250 will continue to be regulated by their current, or an amended Act 250 permit.

**15. How does the 15-year “grandfather” rule affect existing structures:**

Response: The 15-year period noted in the Bylaw is the statute of limitations for zoning regulations. If there is a structure or use that is in violation of the zoning bylaw, and the town does not provide notice of the violation within 15 years, then the Town can no longer enforce a penalty for that particular zoning violation. This is not a change in the proposed Bylaw. It is in the current Bylaw as a reference to Vermont Statute. In the proposed Bylaw, we include the 15-year period so people don’t have to refer back to the state law.

**16. Regulation of shipping containers or similar storage unit:**

Response: A shipping container or repurposed trailer that is used as storage will be permitted as an accessory structure for storage. There seems to be an idea that it is beneficial for someone to “get around” a zoning regulation by creating a storage structure that could conceivably be moved or used for its original purpose, when really it is being used as a permanent storage structure. This is to make a clear record so that when the landowner goes to convey their property, everything on the property can be certified as meeting the zoning requirements. If there is no record of that structure then it can confuse and delay the sale. The proposed language in the revisions has been clarified that this is not a new use. It is to create a record of an existing use.

**17. There are structures above 1600 feet and if this development happened at some point in the past, then it would not cause further harm to build again in that area if we use conservation practices to prevent runoff, etc.:**

Response: We are learning over time and so there are some areas and historic development patterns that we now know degrade the natural resource base, which we didn’t know in the past. Regulations evolve over time such as seat belt laws and smoking bans in public. That being said, we heard comment that specific locations in the conservation district exist where some development could happen that would not promote flood conditions, are not on steep slopes, and would not cause forest fragmentation. Accordingly, the proposed Bylaw provides a path for approval of these applications in the conservation district through Conditional Use.

**18. Allowing agriculture and forestry, which could have a major impact on the land, in the conservation district, while excluding residential development seems to not accomplish the goals of the conservation district:**

Response: In Vermont, agriculture and silviculture are governed by the State, so local zoning doesn’t have any bearing on that. The Vermont Agency of Agriculture Food and Markets has jurisdiction through the Required Practices.

**19. How do zoning regulations impact seasonal versus year round residential dwellings?**

Response: Zoning regulations do not differentiate between a seasonal and year round dwelling. There are not “seasonal” dwellings in the Zoning Bylaw. It is either a dwelling (that could be used year-round) or a camp (that is used seasonally.) For tax purposes, according to the Westfield Listers, there is a different valuation for seasonal versus year-round dwellings, though if a dwelling could be used as a year-round residence, then it is valued and taxed as a year-round residence.

**20. Where the idea of the conservation district came from:**

Response: The conservation district came from the Town Plan, guidance from the Agency of Natural Resources (ANR) and similar conservation districts in other towns. The Town Plan emphasizes maintaining forest, habitat and connectivity blocks by preventing fragmentation. Act 171 in 2016 added this to the requirements for a Town Plan to be approved by the regional planning commission (the guidance from ANR appears in the next comment below.) We looked to how other towns were doing this and found Lowell, Richford, and Montgomery have specific conservation and forestry districts to protect steep terrain at elevation. Jay has a conservation district with low lying areas owned by the town and has state forest protection at high elevation. Troy does not have high elevation. Of all adjoining towns with high elevation, Westfield is the only town without a conservation district.

In our current Zoning Bylaw, it says that building lots can’t have more than half their slope above 20%. Using this slope threshold and the maps that were reviewed with Jens Hilke of Vermont Department of Forest, Parks and Recreation to consider wildlife adaptation and migration, the Planning Commission identified areas where both steep slopes and forest blocks exist. While some of these areas of both steep slope and priority forest exist in places below 1600 feet, this is the dominant landscape above 1600 feet. Setting the boundary at 1600 feet allows the places that are already developed to be outside the conservation district. It seemed mute to include areas of utility infrastructure, buildings and roads that already exist.

**21. Concern that notice of the conservation district was sent only to landowners at and above 1600 feet:**

Response: A courtesy notice was sent by the Planning Commission to call attention to the proposed conservation district. This notice is not required as part of the bylaw amendment process. The required notice is for informational materials that cover all the proposed changes (not just the proposed conservation district) to be posted and to hold a public hearing. The letter to owners of land above 1600 feet was an additional communication and it was mailed to the address of record for every landowner with a parcel partly, or wholly, at and above 1600 feet in elevation.

**22. If the Town of Westfield is really concerned about the State’s new Community Resilience & Biodiversity Protection Act H.126 we should wait for the Agency of Natural Resources for guidance as currently this bill is extremely vague for enactment with no mention to protecting private property owners or rights.**



Response: It is Act 171, passed in 2016, that amended the Vermont Planning Statutes to encourage and allow municipalities to address protection of forest blocks and habitat connectors. In addition, 24 V.S.A. 4302 provides municipalities authority:

To encourage flood resilient communities.

A) New development in identified flood hazard, fluvial erosion, and river corridor protection areas should be avoided. If new development is to be built in such areas, it should not exacerbate flooding and fluvial erosion.

B) The protection and restoration of floodplains and upland forested areas that attenuate and moderate flooding and fluvial erosion should be encouraged.

The purpose of the proposed Zoning Bylaw is to do both and follows recommendations for towns contained in the Vermont Agency of Natural Resources guidance to implement Act 171 which follows:

#### APPROACHES FOR YOUR TOWN TO CONSIDER

In developing an implementation program, there are several approaches a town can take to plan for development in a way that minimizes forest fragmentation and promotes the health, viability, and ecological functions of forests. The following action steps or tools can be identified in your town or regional plan as part of your implementation plan. The implementation plan can simply list each selected option without the background detail provided here. Be sure to identify who will carry out each action step and how, and when, it will be implemented.

The following lists include both regulatory and non-regulatory actions and represent a selection of the many actions a town may choose to undertake. This is a starting point, not a prescription. The specific actions a community selects will depend on their goals, policies, community values, and priorities. One first action step, not listed below, could be to first assess how well existing policies, bylaws, ordinances, or investments support the potentially new goals of the plan.

#### REGULATORY ACTIONS

- **ESTABLISH RESOURCE PROTECTION DISTRICTS (24 V.S.A. § 4414) THROUGH ZONING.** Statute enables municipalities to create zoning districts to regulate the type, density, use, and location of development in certain areas. Specifically, **forest districts** are authorized, allowing communities to limit (or, if desired, exclude) all development unrelated to commercial forestry and forest conservation. This can help reduce the development, fragmentation, and parcelization of forests. **Conservation districts** are another option. These typically encompass areas defined by the presence of one or more natural resources that include features like important wildlife habitat or plant species, high elevations, wildlife corridors and crossing areas (habitat connectors), intact forest blocks, and water source protection areas that often include forest resources. Both forest and conservation districts can require low average densities, smaller development footprints, limit uses, or require conditional use

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review to ensure minimal impact on important resources. A type of resource district is an overlay district. Three examples of overlay district language are included in the Examples of Overlay District Language.

- **INCORPORATE DEVELOPMENT REVIEW STANDARDS IN ZONING BYLAWS THAT ADDRESS FOREST AND WILDLIFE RESOURCES:**
  - **CONDITIONAL USE STANDARDS** regulate the external impacts of development (off site issues). If communities choose to label certain uses as “conditional,” then state statute (24 V.S.A. §4414(3)(A)) lists certain *general conditional use standards* that must be included in any conditional use review process (for example, to address impacts on local roads, community facilities and services, and neighboring properties). Though these general conditional use standards do not address natural resources, statute (24 V.S.A. §4414(3)(B)) also gives communities the option to include *specific conditional use standards* including “any other standards or factors that the bylaws may include.” Specific standards are often used to address impacts to natural resources, especially if applied to allowed uses within resource conservation districts. These standards can help minimize forest fragmentation. Consider reviewing the operability of forestry operations to maintain a working forest landscape. For example, in forest reserve districts, sawmills and other forest oriented businesses could be permitted uses, whereas single family homes in remote locations could be conditional uses.
  - **SITE PLAN REVIEW STANDARDS** (24 V.S.A. §4416) regulate internal site layout and design of a particular property. Typically, site plan review looks at building sites, site circulation, access, parking, screening, and landscaping. Site plan review can also include standards to preserve or protect important elements or features identified on the site – including significant natural resources such as forest stands, wetlands, or endangered species – through context sensitive site layout and design. It is important to note, however, that site plan review does not apply to single or two-family homes, as specified in statute, and is probably not the best option for conserving large tracts of forest land.
- **CREATE OR UPDATE SUBDIVISION REGULATIONS (24 V.S.A., §4418, 4463).** Subdivision regulations are the second most common land use regulations Vermont municipalities enact (after zoning) and one of the most powerful tools available for reducing forest fragmentation. They control the pattern of development by regulating the division of land and protect natural and cultural features by applying review standards to development projects such as through the placement of cut lines, building envelopes, and location of roads.  
*Note: If a town must choose between developing subdivision or zoning regulations, subdivision regulations may be the more effective first step in limiting forest fragmentation. Whereas zoning regulations focuses on the use and location of development, subdivision regulations focus on the pattern of creating new lots (and eventually development).*
- **ENCOURAGE PLANNED UNIT DEVELOPMENTS (PUDS) (24 V.S.A., §4417).** PUDs allow communities to be flexible in the application of land development regulations under subdivision or conditional use review – subject to additional PUD standards, as required by statute – including, but not limited to open space standards. Standards that require the clustering of development and guide the layout of roads and utilities, the location of structures, and the location and use of open space can all help protect large forest blocks and wildlife resources.  
*Note: If PUD regulations are difficult to administer, the same goals can be achieved through a combination of subdivision regulations and conditional use standards.*
- **INVESTIGATE THE FEASIBILITY OF ALTERNATIVES TO MAXIMUM LOT SIZE TO GUIDE DENSITY.** The density of development is an indicator of how intensely land is being used. Well-sited, lower density development can be better for the health of natural resources. Density is typically regulated by lot sizes, with larger lot sizes being

used to achieve lower density. However, this can have the unintended consequence of fragmenting the land. Another option is to manage density by having a standard within a district, but maximum lot sizes. This ensures that when development takes place on larger lots it does not fragment the lot.

- **REVIEW AND STRENGTHEN LOCAL ROAD POLICIES (19 V.S.A., 23 V.S.A., 24 V.S.A.).** Many of Vermont's road networks provide access to undeveloped forest land. Well-planned, sited, and managed road networks contribute to the conservation of forest resources by providing access for timber and wildlife management, restoring degraded areas, guiding users away from sensitive habitats, limiting impacts on wildlife, and getting people out into the woods to appreciate firsthand a community's forest resources. Poorly sited roads, and driveways have the opposite effect by fragmenting forest land, limiting wildlife movement, channeling stormwater runoff, and creating breaks in forest cover that serve as pathways for invasive species. Municipalities have dealt with this by adopting policies to guide and restrict how such roads are upgraded. For example, municipalities have reclassified roads as "public trails," ensuring they will not be upgraded, or have used zoning to require development occur in areas with frontage on class three or higher roads.

### **23. Concern that ponds are prohibited above 1600 feet:**

Response: We heard comment about land that has been historically ditched and drained at high elevation and the idea that a pond might contribute to ecosystem services. The Planning Commission agrees. Wetland restoration (including naturalized conditions of open water) and other habitat restoration projects will be permitted uses in the conservation district, similar to streambank and riparian restoration projects that are permitted in the special flood hazard area.

### **24. Are surrounding towns going to create conservation districts?**

Response: Of the abutting towns with high elevation, Westfield is the only town that does not have a conservation district.

Richford has both a Recreational/Conservation District in the Village where residential use is prohibited and only accessory structures may be constructed. Richford also has a Forest/Conservation District described as "land has limited suitability for future community growth and development because of severe development limitations, including remote locations, extreme topography, and shallow soils. Regulation in this district is intended to protect the scenic and natural resource values of this land for forestry, wildlife habitat, wetlands, and outdoor recreation. Only limited low-density development is encouraged in this district." The district is on steep slopes starting generally around 1000 feet in elevation.

Jay has a recreation-conservation district for lands at low elevation that were given to the Town of Jay for recreation only. Jay does not have a conservation district at high elevations. Land at elevation is either highly developed or under a formal conservation easement. It can be noted that high elevation development has brought economic activity to Jay, and has also brought the need for FEMA buyouts and problems with flooding on the flats of the Jay Brook.

Lowell has a Conservation-Mountain District that “should have the least intensity of development as it is generally hilly, has poor access, and in many cases, has shallow soils. With any intensity of development, much permanent damage will be done to the area. Generally speaking these lands are above 2000 feet in elevation.” Accessory uses, a one family dwelling and home occupation are permitted uses in the Conservation-Mountain District.

Montgomery has two conservation districts, Conservation 1 and Conservation 2.

Conservation 1 lands are on steep slopes and are not defined by elevation. Permitted uses include accessory structures and accessory dwellings. Single family dwellings are a conditional use. Conservation 1 is described as “to preserve the ecological, cultural and economic value and function of forest blocks and the natural resources they encompass as detailed in the current Montgomery Town Plan. These include: To maintain healthy, viable populations of native wildlife; to support active forest management as a means of supporting the local wood products industry; to enhance outdoor recreation valued by residents and visitors alike; to provide for the protection of source waters which feed rivers and streams, including important aquatic habitats; and to maintain the aesthetics associated with the agricultural and forested landscape.

Conservation 2 is land at 1600 feet in elevation and above. The existing development of Alpine Haven is excluded and defined as a Village District. In Conservation 2, camps and accessory structures are conditional uses, and residential and commercial uses are prohibited. The Conservation 2 District is described as “forest blocks at 1,600 feet in elevation and above. Placing restrictions on development is essential due to the sensitive resources located there, including wildlife habitat, steep slopes, shallow soils, headwaters, and the potential for development to affect erosion or flood hazards downstream. Protection of these areas also serves the ecological, cultural and economic benefits associated with the rural character...”

Troy does not have a conservation district. The town has no land at high elevation.

**25. Regarding sections that limit development at high levels and connect wildlife corridors...”as survivors of the devastating flood of 1997 which was exacerbated by the large clear cutting on Ball Ground Road, we are especially pleased...”:**

Response: The Planning Commission agrees that development at high elevation increases flood conditions in lowlands and appreciates support for establishment of a conservation district.

**26. The new proposed by-law subdivisions are too generous, needs to be stricter with greater lot sizing, frequency of subdivisions, setbacks from waterways, rather than restricting structures on current & future taxation potential:**

Response: Lot sizes are regulated according to their Zoning District. Without formation of a conservation district, there is no mechanism to require a larger lot size on steep slopes or at higher elevations. The minimum lot size increase in the proposed conservation district is from 2 acres to 10 acres and a minimum frontage increase from 150 feet to 300 feet. Structures are not restricted in the revised Zoning Bylaw. The number of structures permitted (that would increase assessed value for taxation) in the Town

is greatly increased, more than doubled, with revisions to §802 Structures on Lots which permits up to two (2) single-household or two-household dwellings. The revisions would promote increased density of structures rather than distribute more structures across the landscape.

**27. Affirmation of the revisions from the Northeastern Vermont Development Association:**  
“Overall, I want to HIGHLY commend the Westfield Planning Commission for this very impressive work.”

**Points on clarity and organization:**

- **Tables and Illustrations...**provide an easy-to-understand snapshot of desired development patterns and land uses throughout the town.
- **Development Review Board...**concentrating all development review with the DRB creates a stronger awareness of due process and transparency.
- **Administration and enforcement...**the proposed amendment provides clear direction and detail to the applicant and any interested party.
- **Meeting and Hearing Procedures and Decisions...**explicit detail reaffirms the DRB’s commitment to due process and fairness.

**Points on the creation of housing and economic opportunities:**

- **Elimination of the limit of one principal use per lot**
- **Permissive provisions for Accessory Dwelling Units**
- **Rural Economic Enterprises**

**Points on conservation lands:**

**Priority habitat blocks, Attenuation of floodwaters, Flexible site design, and a final point about the Conservation District...**strengthens the Town’s standing in proposals for grid-connected energy projects.

**Specific Suggestions:**

- **Section 208: Appeals of Zoning Administrator Decisions:** Since Act 47 made some changes to “interested party” status, you might consider adding text box that explains what constitutes an interested party. The definition changed under Act 47 to include a “resident” and now prohibits the 10-person rule from appealing the character of the area when a project involves affordable housing.
- **Section 302 B.** The interpretation of flood hazard boundaries are slightly different, so you might consider a footnote in this section to appropriate sections in Article 10. You have identified a process for identifying River Corridor Boundaries in Section 1003.02, but you should also point out that a Letter of Map Amendment from FEMA ultimately determines the boundary of the Special Flood Hazard Area.
- **Section 401.03 Statutory Exemptions:** Remember to include Emergency Shelters, which were added to 24 VSA §4413 under Act 47.

- **Section 402.02: No Amendment after Application:** Since you allow for alterations or minor changes to existing and approved conditional use, maybe this section should be crossed referenced? Perhaps something like “...no changes shall be made which affect the design of the development except in strict conformance with Section 403.01?”
- **Section 502.04: Character of the area affected** – there may be some limitations when the DRB can consider this, such as in affordable housing. A footnote might be helpful here.
- **Section 603.01 A.** In the parentheses, is this a reference to Figure 3?
- **Section 907: Limitation on Regulation of Public Facilities:** I think that this section should also include “emergency shelters.”
- **Section 916 and 917: Solar Energy Conversion Systems, Wind Energy Conversion Systems:** Although these sections specifically exempt projects that come before the PUC, perhaps a footnote that explains that the Town of Westfield has Substantial Deference in PUC proceedings through its Town Plan?

Response: The Planning Commission will amend the revisions to include the changes in the specific suggestions, and appreciates the attention to detail from NVDA, our regional planning commission.

**28. For Flood Hazard Area Protections, one item is problematic: Item 17 on the checklist.**

**1004.03 C)“interior improvements or repairs to existing buildings that would not require a Zoning Permit under this Bylaw.”** The earlier draft language was acceptable to the FEMA reviewer:

**“Interior improvements or repairs to existing buildings that cost less than 500 dollars;”**

The regulations intend to minimize flood damage – in large part by using flood-damage resistant materials and methods for improvements to structures that are already vulnerable to flooding. Also, through the NFIP the value of any improvements or repairs (even interior and high in the building) are considered for the determination of “Substantial Improvement” or “Substantial Damage”:

Response: The Planning Commission will include the \$500 threshold. For exemption from a Zoning Permit for interior repairs in the special flood hazard area, the cost must be less than \$500. Interior repairs in the special flood hazard area with a cost more than \$500 will require a Zoning Permit.

**29. Increased use of parking area on 242 for Big Jay backcountry access. Parking sometimes exceeds the capacity. Could zoning plan for parking and regulate signage there?**

Response: The parking on Rt 242 is wholly within the right-of-way for the state highway, and is owned and maintained by VT Agency of Transportation. Town zoning would not regulate the parking area, though the Planning Commission can get in touch with VTrans to discuss the parking needs at that location.